

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

THOMAS WAYNE CLARK,

Plaintiff,

Civil Action No.
09-CV-10300

vs.

PATRICIA L. CARUSO, et al.,

PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

Defendants.

ORDER

**(1) ACCEPTING AND ADOPTING THE MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION,
(2) GRANTING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT,
(3) DENYING PLAINTIFF'S MOTION FOR INJUNCTION AND TEMPORARY
RESTRAINING ORDER, and
(4) DENYING ALL OTHER OUTSTANDING MOTIONS AS MOOT**

This is a prisoner civil rights case. Plaintiff Thomas Wayne Clark, proceeding *pro se*, was confined to the Gus Harrison Correctional Facility in Adrian, Michigan, at all times relevant to this lawsuit. Plaintiff claims that his constitutional right to access the courts was violated when certain documents were confiscated from his cell pursuant to a prison rule prohibiting prisoners from possessing “[m]ail for the purpose of operating a business enterprise while within the facility.” In addition to the constitutional claim brought under 42 U.S.C. § 1983, Plaintiff brings conspiracy claims under 42 U.S.C. § 1985 and 1986.

Plaintiff is suing: (1) Patricia Caruso, the Director of the Michigan Department of Corrections, (2) Warden Thomas Bell, (3) Assistant Deputy Warden Lee McRoberts, (4) Assistant Deputy Warden Peggy Bourne, (5) Litigation Coordinator Karl Wright, (6) Resident Unit Manager

Alfred Williams, (7) Assistant Resident Unit Supervisor Mark Mackintosh, and (8) Resident Unit Officer Jeremy Leffler.

Now before the Court are the following three motions: (1) Defendants' Motion to Dismiss, filed on April 6, 2009, (2) Defendants' Motion for Summary Judgment, filed on April 27, 2009, and (3) Plaintiff's Motion for Injunction and Temporary Restraining Order, filed on April 14, 2009. In the Motion to Dismiss, which is brought by six of the eight defendants, the moving defendants argue that Plaintiff failed to exhaust his administrative remedies. In the Motion for Summary Judgment, which is brought by all eight defendants, defendants argue that Plaintiff's various claims fail on the merits.

On February 1, 2010, Magistrate Judge Paul J. Komives issued a Report and Recommendation ("R&R") in which he recommends that the Court (1) deny Defendants' Motion to Dismiss as moot, (2) grant Defendants' Motion for Summary Judgment, and (3) deny Plaintiff's Motion for Injunction and Temporary Restraining Order.

Plaintiff filed untimely objections to the R&R on February 18, 2010. Nevertheless, the Court has considered the objections and reviewed *de novo* those portions of the R&R to which a specific objection has been made. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Having done so, the Court finds that Magistrate Judge Komives has reached the proper conclusions for the proper reasons. Accordingly,

IT IS ORDERED that Magistrate Judge Komives' R&R dated February 1, 2010, is accepted and adopted as the findings and conclusions of the Court.

IT IS FURTHER ORDERED that Plaintiff's objections to the R&R are overruled.

IT IS FURTHER ORDERED that Defendants' Motion for Summary Judgment is granted.

IT IS FURTHER ORDERED that all other outstanding motions are denied as moot.

S/Paul D. Borman
PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

Dated: March 2, 2010

CERTIFICATE OF SERVICE

Copies of this Order were served on the attorneys of record by electronic means or U.S. Mail on March 2, 2010.

S/Denise Goodine
Case Manager